

THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 13324 OF 2002

Dated 19th July, 2007

Between:

V.Venkataramanappa

...Petitioner

And

The State Transport Appellate Tribunal,
A.P. Hyderabad, represented by its Presiding
Officer, Manoranjan Complex, near Ajantha Gate,
Mojahamjahi Road, Hyderabad and others.

...Respondents.

ORAL ORDER:

This writ petition is filed challenging the orders of the State Transport Appellate Tribunal dated 30.4.2002 allowing R.P. No. 7 of 2000 filed by the third respondent – Andhra Pradesh State Road Transport Corporation.

The petitioner herein was granted pucca stage carriage permit on the inter-State route from B.Kothakota to Chinthamani in Karnataka by the State Transport Authority under the old Act, namely, the Motor Vehicles Act, 1939. The permit was being renewed from time to time and in view of the decision of the Honourable Supreme Court in **Gajraj Singh v. State Transport Appellate Tribunal**^[1] wherein the Honourable Supreme Court held that the permits granted under the old Act are deemed to have lapsed on coming into force of the new Act, namely, The Motor Vehicles Act, 1988, the petitioner while plying on the above said permit obtained fresh permit under the new Act and thereafter, has applied for grant of variation of the conditions of permit to include seven extra singles and inclusion of another bus to the existing permit. The Karnataka State Transport Authority, Bangalore by its order dated 28.11.1998 granted the said variation subject to countersignature by the State Transport Authority, Andhra Pradesh. The State Transport Authority, Andhra Pradesh by its order dated 16.10.1999 in proceedings R.No.43/BI/99 has granted countersignature on the ground that the petitioner is not affected by the approved schemes of the A.P.S.R.T.C. as per the scheme conditions. Further, it is observed that the scheme conditions allow overlapping to the existing operators by 8 kms. whereas the

overlapping in the instant case is only 4.6 kms and the same is within the permissible limits of the scheme conditions, while rejecting the objections raised by the third respondent – Corporation. Aggrieved by the said order, the third respondent-Corporation has filed Revision Petition No.7 of 2000 under Section 90 of the Motor Vehicles Act, 1988 before the State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad.

The order of the State Transport Authority, Andhra Pradesh granting countersignature in favour of the petitioner was questioned by the third respondent-Corporation on the ground that the inter-State route, in which the petitioner is operating from B.Kothakota to Chinthamani overlaps the routes from Madanapalli to Kadiri, notified in G.O.Ms.No.767, dated 3.6.1975 and Madanapalli to Chowdasamudram, notified in G.O.Ms.No.1125, dated 7.12.1976. It was the case of the third respondent-Corporation that as per the scheme conditions, only the existing operators are saved and as no protection was made for future permits, any grant of variation on the application of the petitioner will amount to grant of new permit. The State Transport Appellate Tribunal by impugned order dated 30.4.2002 has allowed the revision filed by the third respondent-Corporation by recording a finding that the grant of variation of conditions of permit is, in substance, grant of new permit since the conditions of the Scheme notified in G.O.Ms.Nos. 767 and 1125 do not permit such variation. In the said order, it is held by the State Transport Appellate Tribunal that when the petitioner is not entitled for grant of new permit, he is also not entitled for grant of variation of conditions of permit already issued to him.

The said order of the revisional authority is questioned by the petitioner, mainly, on the ground that as he was the existing permit holder even as on the date of the schemes notified in G.O.Ms.Nos. 767 and 1125 and in view of the scheme conditions, the existing

operators are saved on inter-State route from Chinthamani to B.Kothakota. In this context, it is submitted by the learned counsel for the petitioner, Shri Venkataramana, that as much as the existing operators are saved, the variation granted by the Karnataka State Transport Authority and the countersignature granted by the State Transport Authority Andhra Pradesh are not contrary to the conditions of the scheme. It is further submitted that out of the total length of 44 kms, a portion of it to the extent of about 9.5 kms is lying in the State of Andhra Pradesh and even the overlapping is within the permissible limits. In that view of the matter, without recording any valid reasons, the order of the State Transport Authority is set aside by the revisional authority – The State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad.

It is further submitted that when the variation was granted by the State Transport Authority, Karnataka by its order dated 28.11.1998, objections were filed on behalf of the third respondent – A.P. State Transport Corporation and after considering the said objections only, the variation was permitted and as such, it is not open again to the third respondent-Corporation to question the order on similar set of objections at the stage of countersignature by the State Transport Authority, Andhra Pradesh. The learned counsel has placed reliance on the judgment of the Supreme Court in **K.S.R.T.Corpn., Bangalore v. B.A.Jayaram**^[2].

On the other hand, it is contended by Shri Srinivasa Rao, learned Standing Counsel appearing for the A.P.State Road Transport Corporation that the route in question, in which the petitioner is granted permit, overlaps the notified route in Andhra Pradesh and in view of the total prohibition for grant of new permits on the notified routes, the petitioner is not entitled for any variation also on the existing permit. It is submitted that the variation sought for increasing the number of trips, extension, or, curtailment of the

route or routes of the areas specified in the permit amounts to grant of new permit and as such, the revisional authority by recording a finding that any variation will run contrary to the conditions notified in the approved scheme, allowed the Revision Petition. Reliance is placed by the learned Standing Counsel on the judgment of the Supreme Court in **Pandiyan Roadways Corporation Ltd. V. Thiru M.A.Egappan**^[3] and also a Full Bench decision of this Court in **L.Raghuram v. State Transport Appellate Tribunal, A.P. Hyd.**^[4].

In this case, it is not in dispute that the inter-State route in question from B.Kothakota in Andhra Pradesh to Chinthamani in Kanataka overlaps the notified routes published in G.O.Ms.Nos. 767 dated 3.6.1975 and G.O.Ms.No.1125 dated 7.12.1976. In G.O.Ms.No.767 Home (Transport.V) Department, dated 3.6.1975, the route notified is Madanapalli to Kadiri via Gattu Kothakota, Bodikayalapalli, Biramgi, Pedda Tippasamudram and Mulakala Cheruvu – 104 kms. and as per the scheme conditions, only existing stage carriage permits and future stage carriage permits in respect of town service routes only are saved and no protection was provided for grant of future permits to inter-State permits. Similarly in G.O.Ms.No.1125, Transport, Roads and Buildings (Transport-V), dated 7.12.1976 the route from Madanapalli to Chowdesamudram was notified. Even as per the said approved scheme conditions, only the existing inter-State permit holders were saved and no protection was afforded for future permits. Though the petitioner was an existing permit holder as on the date of the notification of the routes covered by G.O.Ms.Nos. 767 and 1125, but, subsequently, the petitioner had applied to the State Transport Authority, Karnataka for grant of extra single on the existing bus and seven more singles by adding new bus on the existing permit, which was granted by the Karnataka State Transport Authority by order dated

28.11.1998. However, the said order was subject to grant of countersignature by the State Transport Authority, Andhra Pradesh. When the State Transport Authority, Andhra Pradesh had passed orders granting counter-signature, the same was challenged by the third respondent-Corporation by filing Revision Petition before the State Transport Appellate Tribunal, Andhra Pradesh. The State Transport Appellate Tribunal has allowed the Revision by order dated 16.10.1999 which is under challenge in this writ petition.

Before the core issue, which arises for consideration in the case is examined, I deem it appropriate to refer to sub-section (3) of Section 80 of the Motor Vehicles Act, 1988. Section 80 of the Motor Vehicles Act, 1988 deals with the procedure in applying for and granting permits. Sub-section (3) of Section 80 of the Motor Vehicles Act, 1988, to the extent relevant to the case on hand, reads:

“(3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit.”

A reading of the above makes it amply clear that any application for inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit. In this context, though the Honourable Supreme Court in **K.S.R.T.Corpn., Bangalore v. B.A.Jayaram**, relied on by the learned counsel for the petitioner, held that the application for variation in conditions of permit will not amount to grant of a new

permit, but, however, in the subsequent decision in **Pandiyan Roadways Corporation Ltd. V. Thiru M.A.Egappan (3 supra)**, the Honourable Supreme Court considered the same aspect and held that unless there is express saving in the scheme conditions, even grant of variation on the existing permit cannot be granted contrary to scheme conditions. Further, a Full Bench of this Court has also categorically held that once a scheme is approved, even for the existing operators, grant of variation and further shuttles also cannot be allowed. Therefore, in view of the decisions in **Pandiyan Roadways Corporation Ltd. V. Thiru M.A.Egappan (3 supra)** and **L.Raghuram v. State Transport Appellate Tribunal, A.P. Hyd. (4 supra)**, the submission of the learned counsel for the petitioner that he is an existing operator and he is saved by the scheme conditions cannot be accepted. The scheme conditions are very specific that grant of new permits is prohibited. Even if he is an existing operator as on the date of the approved schemes notified in G.O.Ms.Nos. 765 and 1125, he is entitled to ply the vehicle as per the permit conditions existed then, but, in view of the prohibition of grant of future permits, the petitioner is not at all entitled for grant of variation for additional singles and also for addition of bus with extra singles on the same permit.

The further argument of the learned counsel for the petitioner is that as much as the third respondent-Corporation has already raised its objection at the time of grant of permit for variation by the State Transport Authority, Karnataka, it is not open for it to raise similar objection at the stage of countersignature. However, it is to be noted that the variation granted by the State Transport Authority, Karnataka is subject to grant of countersignature by the State Transport Authority, Andhra Pradesh as the same is inter-State route. In view of the approved schemes notified in G.O.Ms.Nos. 765 and 1125, which overlap on the route of the petitioner from

Chinthamani to G.Kothakota, it is always open for the third respondent-Corporation to raise its objections if the countersignature is sought contrary to the conditions of the approved scheme. Even the said objection of the petitioner also cannot be accepted in view of the judgments referred to above, particularly, **Pandiyan Roadways Corporation Ltd. V. Thiru M.A.Egappan** (3 supra) and **L.Raghuram v. State Transport Appellate Tribunal, A.P. Hyd. (4 supra)**. The order of the revisional authority is in conformity with the ratio decided in the judgments referred to above.

In that view of the matter, I do not find any illegality, which warrants interference with the order of the revisional authority. The writ petition is accordingly dismissed. No order as to costs.

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VR

R.SUBHASH REDDY, J.

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- [\[1\]](#) AIR 1997 sc 412
[\[2\]](#) AIR 1984 SC 790
[\[3\]](#) AIR 1987 SC 958
[\[4\]](#) 2001(5) ALD 711